IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FIFTEENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO.12387 of 2001

Between:

1. The Deputy Executive Engineer, FRL, Survey Sub-Division, Kollur, Kurnool District.
2. The Executive Engineer, P.W.Division, Kollur, Kurnool District.
3. The Superintending Engineer, Dam Maintenance Circle, Srisailam Project, Kurnool District.
4. The Chief Engineer (Projects), Srisailam Project, Kachiguda, Hyderabad.
5. The Executive Engineer, Telugu Ganga Project, Srikalahasti, Chittoor District.

...PETITIONERS

AND

1. Smt.J.Jayaprada, W/o.Murali Krishna, C/o.8/286, Court Road, Anantapur.
2. The Presiding Officer, Industrial Tribunal-cum-Labour Court, Anantapur.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ, order or direction more in the nature of a Certiorari calling for the records pertaining to the Award in I.D.No.47/1996, dated 28.02.2000 on the file of the Industrial
Tribunal-cum-Labour Court, Anantapur and quash the same on the ground that the same is illegal and unsustainable.

Counsel for the Petitioners: GP FOR IRRIGATION & COMMERCIAL AREA DEVELOPMENT

Counsel for the Respondent No.1: PONDICHERRY KODANDAPNI KALYANI

Counsel for the Respondent No.2: G.P. for Labour

The Court made the following:

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO.12387 of 2001

ORDER:

Heard the learned Government Pleader for Irrigation appearing on behalf of the petitioners and Smt.P.K.Kalyani, the learned counsel appearing on behalf of the first respondent and the learned Government Pleader appearing on behalf of the second respondent.

The petitioners herein filed this Writ Petition, *inter alia*, seeking to assail the award dated 28.02.2000 passed in I.D.No.47 of 1996 on the file of the second respondent herein, where under, in a reference sought at the instance of the first respondent, a direction was given for her reinstatement.

The case of the petitioner is that there is absolutely no relationship between the employee and the employer. The first respondent herself absconded from the service and therefore, it cannot be said that she is entitled to any relief. Further, it is pointed out that even with regard to the check and events, where under, the matter has gone to the Supreme Court, employment has to be provided but not otherwise,

whereas in this case, the first respondent having absconded herself from service, cannot seek reinstatement or employment. Hence, the Writ Petition.

The learned Government Pleader appearing on behalf of the petitioners submitted that in view of the fact that absolutely there is no evidence to show that earlier she was directly employed under the petitioners, it cannot be said that there is relationship of employee and employer as such and no relief could be granted. As pointed out, she hardly worked for four days and would not come within the four corners of the word ‘worker’ and as such no relief can be given.

Smt.P.K.Kalyani, the learned counsel appearing on behalf of the contesting respondent sought to contend the above said contention and submitted that on the basis of the evidence as produced before the second respondent, it is not open for the petitioners to assail the same, especially in the absence of any material produced by them.

Having regard to the submissions made on both sides and on perusal of the material available on record, the only question which arises for consideration is whether under the facts and circumstances, the award passed by the second respondent with regard to reinstatement of the first respondent is valid.

There is no dispute to the basic fact that the first respondent claiming to be an NMR, worked with the petitioners and sought the reference of the dispute in regard to the services in the Labour Court, wherein, after conducting enquiry, it was held that she is entitled to reinstatement having regard to the nature of service she rendered. It is seen from the record that during the course of enquiry, the first

respondent was examined as M.W.1 and she had also marked the documents Exs.W1 to W4, whereas no evidence was adduced nor any documents were marked on behalf of the petitioners before the Labour Court and also in this Writ Petition. Further, no attempt has been made on behalf of the petitioners to let in any evidence or to mark any documents. A reliance was also sought to be placed with regard to the proceedings in this Writ Petition. Following part of the record before the second respondent, having not filed any material there and also having not produced any evidence in support of, it is not open to the petitioners in the Writ Petition under Article 226 of the Constitution of India that having regard to the findings arrived at to the effect that the case of the first respondent has been duly considered only on the basis of the directions given by the Supreme Court as per the orders in C.M.P.No.27809 of 1987 dated 20.04.1988, I do not find any error, much less, valid ground to interdict the same under Article 226 of the Constitution of India. Hence, there are no merits.

The Writ Petition is accordingly dismissed.

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(B.PRAKASH RAO, J)

15th March 2005

RRB

ASSISTANT REGISTRAR

//True Copy//

SECTION OFFICER

Copy To:

1. The Presiding Officer, Industrial Tribunal-cum-Labour Court, Anantapur.

2. The Deputy Executive Engineer, FRL, Survey Sub-Division, Kollur, Kurnool District.

3. The Executive Engineer, P.W.Division, Kollur, Kurnool District.

4. The Superintending Engineer, Dam Maintenance Circle, Srisailam Project, Kurnool District.

5. The Chief Engineer (Projects), Srisailam Project, Kachiguda, Hyderabad.

6. The Executive Engineer, Telugu Ganga Project, Srikalahasti, Chittoor District.

7. Two CCs to G.P. for Irrigation and Commercial Area Development, High Court Buildings, Hyderabad (OUT).

8. Two CCs to G.P. for Labour, High Court Buildings, Hyderabad (OUT).